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AT 8:30 _____ M
WILLIAM T. WALSH CLERK

Attorneys for Plaintiff Depomed, Inc.

*Attorneys for Defendant Zydus Pharmaceuticals
(USA), Inc. and Cadila Healthcare Limited*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DEPOMED, INC.,)	
)	
Plaintiff,)	Civil Action No. 3:12-CV-02813 (JAP) TJB
)	
v.)	
)	
ZYDUS PHARMACEUTICALS (USA), INC.,)	
and CADILA HEALTHCARE LIMITED)	
)	
Defendants.)	
)	

CONSENT INJUNCTION AND DISMISSAL ORDER

This action for patent infringement (the "Litigation") has been brought by Plaintiff Depomed, Inc. ("Depomed") against Defendants Zydus Pharmaceuticals (USA), Inc. and Cadila Healthcare Limited (collectively, "Zydus") for alleged infringement of United States

✓ Patent Nos.: 6,635,280; 6,723,340; 6,340,475; 6,488,962; 7,438,927; 7,731,989; 8,192,756; 8,252,332; and 8,333,992 (collectively the "Asserted Patents"). Depomed's commencement of the Litigation was based on its receipt of notice from Zydus that Zydus had filed Abbreviated New Drug Application ("ANDA") No. 203934 with the United States Food and Drug Administration ("FDA") containing a certification pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) directed to the Asserted Patents and seeking approval to market generic versions of Gralise® brand 300 mg and 600 mg gabapentin tablets.

Depomed and Zydus have agreed to enter into a good faith final settlement agreement (the "Settlement and License Agreement") regarding this Litigation on the expectation and belief that this would eliminate the substantial litigation costs that would otherwise be incurred by Depomed and Zydus during the Litigation, while also serving the public interest by saving judicial resources and avoiding the risks to each of the parties associated with infringement. The Settlement and License Agreement will afford Depomed and Zydus the procompetitive opportunity to more productively use money and other resources that would have been spent in the continued prosecution and defense of this Litigation, to the benefit of the parties and consumers alike, such as by investing more money in pharmaceutical research and development.

Each of Depomed and Zydus acknowledge that the continued prosecution of this Litigation is not in their commercial interests and have consented to entry of this order through a final settlement as reflected herein. The Court, upon the consent and request of Depomed and Zydus, hereby issues the following Order.

Depomed and Zydus now consent to this Consent Injunction and Dismissal Order, and

IT IS HEREBY ORDERED that:

1. Subject matter jurisdiction, personal jurisdiction, and venue are all proper in this Court.

2. In this Litigation, Depomed charged Zydus with infringement of the Asserted Patents in connection with Zydus's submission of ANDA No. 203934 directed to generic tablets containing 300 mg and 600 mg of gabapentin per tablet to the FDA.

3. In response to Depomed's charges of patent infringement, Zydus has alleged certain defenses and counterclaims, including that the Asserted Patents are invalid or not infringed. The Court has not adjudicated Depomed's charges of patent infringement or Zydus's defenses and counterclaims.

4. Zydus, their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby enjoined from manufacturing, using, offering to sell or selling within the United States and its territories and possessions, including the Commonwealth of Puerto Rico (the "Territory"), or importing into the Territory, any generic tablet product containing 300 mg or 600 mg of gabapentin per tablet that is the subject of ANDA No. 203934 until such day as may be permitted by the Settlement and License Agreement that the Parties have entered into. Each of Depomed and Zydus each expressly waives any right to appeal or otherwise move for relief from this Consent Injunction and Dismissal Order.

5. Neither this Consent Injunction and Dismissal Order nor the entry of this Consent Injunction and Dismissal Order may be asserted by Depomed against Zydus, and shall have no preclusive effect whatsoever, with respect to any product other than that described in Zydus's ANDA No. 203934 (including any amendments, supplements, or

✓
replacements).

6. Nothing herein prohibits or is intended to prohibit Zydus from maintaining a "Paragraph IV Certification" pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) (including as amended or replaced) or pursuant to 21 C.F.R. § 314.94(a)(12) (including as amended or replaced) with respect to the Asserted Patents.

7. All claims, counterclaims and defenses as between Depomed and Zydus are hereby dismissed without prejudice.

8. This Court retains jurisdiction over Depomed and Zydus for purposes of enforcing this Consent Injunction and Dismissal Order.

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9. The Clerk of the Court is directed to enter this Consent Injunction and Dismissal Order forthwith.

IT IS SO STIPULATED.

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Attorneys for Defendant Zydus Pharmaceuticals (USA), Inc. and Cadila Healthcare Limited

SO ORDERED this 9th day of June, 2014



HONORABLE JOEL A. PISANO
UNITED STATES DISTRICT JUDGE